IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

WP(C).No. 32449 of 2007(K)

PETITIONERS:

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1. M.C.KUSALAN, S/O CHAMI,
   MANKOTTUKALAM VEEDU, THENKURUSSI P.O.,
   ALATHUR, PALAKKAD(LICENSEE OF T.S.NO.27 & 52/07-08
   GROUP NO.V, KUZHALMANNAM)

2. K.S.AMALENDU, S/O SUBHASH,
   KOLLARA VEEDU, EDATHURUTHY P.O.,
   KODUNGALLUR, THRISSUR(LICENSEE OF T.S.NO.
   23/07-08).

3. V.DEVADASAN, S/O VELAYUDHAN,
   PARUTHIKAD VEEDU, KUNNISSERY, ALATHUR,
   PALAKKAD(LICENSEE OF T.S.NO.24/07-08).

4. A.RAJESH, S/O APPU,
   CHENAPPANTHOTTAM KALAM, NANDANKIZHAYIL DESOM,
   CHITTOOR, PALAKKAD(LICENSEE OF T.S.NO.21/07-08).

BY ADV. SRI.M.C.JOHN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
   SECRETARY(TAXES)DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

2. THE COMMISSIONER OF EXCISE,
   THIRUVANANTHAPURAM.

3. THE ASISTANT EXCISE COMMISSIONER,
PALAKKAD.

4. THE EXCISE INSPECTOR,
KUZHALMANNAM RANGE, PALAKKAD.

5. V.M.VENUGOPALAN, S/O MADHAVAN,
VELLOORTHODY, MANKARA, MANKURUSSI P.O.,
PALAKKAD(LICENSEE OF T.S.NO.53 AND 22/07-08).

BY GOVT. PLEADER SMT. ANU SIVARAMAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/11/2007, ALONG WITH W.P.C.32491/07 AND CON.CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) Nos.32449, 32491 & 32492 of 2007

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Dated this the 1st day of November, 2007

JUDGMENT

Petitioners have approached this court challenging Ext.P4. Ext.P4 is issued as a show cause notice as to why the licence issued in favour of the petitioners to conduct the toddy shop should not be cancelled. It is also an order of suspension apparently passed under Section 26 of the Abkari Act. Apparently the case of the petitioners appears to be that no offence was detected , but sample was taken from some other shop and sample taken from the other shop was found to be adulterated. Petitioners have preferred Ext.P5 objection in all these cases.

2. I do not propose to consider the challenge to Ext.P4 as I find that it is essentially a show cause notice and an order of suspension. But I feel that a decision should be taken at the earliest in the matter.

3. I heard learned Government Pleader also.

The writ petitions are disposed of as follows:

There will be a direction to the second respondent to consider and

take a decision on Ext.P5 objections filed in all these cases and take a decision in accordance with law after affording an opportunity of being heard to the petitioners or their representative. In order to facilitate an early decision in the matter as the licences of the shops have been suspended, petitioners or their representatives in all these cases shall be present before the second respondent at 11 a.m., on 7.11.2007. The second respondent shall proceed to hear them and take a decision as aforesaid within a period of one week from 7.11.2007. In view of the urgency pressed by the petitioners, I also feel that a decision should be taken by the second respondent as to whether the shops should continue to remain suspended on 7.11.2007 itself. Accordingly the second respondent will also take a decision on 7.11.2007 itself in regard to the question as to whether pending a final decision on the question of cancellation, the suspension of the licences should continue or not.

(K.M. JOSEPH, JUDGE)

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